MT LEGISLATIVE HISTORY

Chapter 495 19 77

Bill H. _____ S 309 Original bill & hist. ___C

H. Committee on Tax S. Committee on Tax

| Hearing Date(s) | | C | Hearing Date(s) | | C |
|---|---|---|---|---|---|
| | Mar 21 | ✓C | | Feb 11 | ✓C |
| | Apr 06 | ✓C | | Feb 22 | ✓C |
| | _____ | ___C | | _____ | ___C |
| | _____ | ___C | | _____ | ___C |
| Date Out | Apr 06 | ✓C | | Feb 22 | ✓C |

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate BILL NO. 309

INTRODUCED BY Matthews, Turnage & Stephens

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ROYALTY INTERESTS MAY BE REQUIRED TO SHARE THE BURDEN OF THE RESOURCE INDEMNITY TRUST TAX ON A PRO RATA BASIS AND EXEMPTING GOVERNMENTAL ROYALTIES FROM SUCH TAX; AMENDING SECTION 84-7006, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-7006, R.C.M. 1947, is amended to read as follows:

"84-7006. Tax on mineral production. The annual tax to be paid by the person engaged in or carrying on the business of mining, extracting, or producing a mineral shall be twenty-five dollars ($25), together with an additional sum or amount computed on the gross value of product which may have been derived from the business work or operation within this state during the calendar year immediately preceding, at the rate of one-half of one percent (1/2 of 1%) of the amount of gross value of product at the time of extraction from the ground, if in excess of five thousand dollars ($5,000). Each person required to pay such tax hereunder shall pay the same in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable minerals extracted or produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of such extracted marketable minerals, except that any of the aforesaid interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts."

-End-

# STATE OF MONTANA

REQUEST NO. 387-77

# FISCAL NOTE

*Form BD-15*

In compliance with a written request received February 7, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 309 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION

This bill provides that royalty interests may be required to share the burden of the resource indemnity trust tax on a pro rata basis and exempts governmental royalties from such tax.

## ASSUMPTIONS

If this bill had been in effect in FY 76, the resource indemnity trust tax collections would have been reduced by approximately $70,000 or 3.5%. There are no revenue projections for the RITT in the biennium, but it is felt that this proposal would reduce RITT collections by 3.5% in the future.

## LONG-RANGE EFFECTS

The long-range effect of this bill would be to reduce RITT collections by 3.5%.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Dunn fa

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-11-77

TAXATION COMMITTEE

45TH Legislature

| Bill No. | Subject Matter | Date In | Sponsor | Hearing Date | Committee Action | Date Out |
|---|---|---|---|---|---|---|
| SB 309 | Royalty interests may be required to share burden of resource indemnity trust tax on a pro rata basis & exempting gov't. royalties from such tax; amend. 84-7006. | 3/3 | Mathers | 3/21 | BE CONCURRED IN | 4/6 |
| SB 384 | Providing 6-mill or less voted levy for hospital district purposes; amend secs. | 3/3 | McOmber | 3/18 | BE CONCURRED IN | 4/6 |
| SB 352 | Allow 5-year income averaging for state income tax purposes; providing effective date. | 3/14 | Jergeson | 3/22 | NOT BE CONCURRED IN | 4/7 |
| SB 350 | Providing for establishment of full market value of new or expanded business real property over a period of 5 years. | 3/18 | Stephens | 3/24 | NOT BE CONCURRED IN | 4/6 |
| SB 31 | To implement recommendations of interim subcommittee on taxation, revising & updating Montana inheritance tax regarding joint estates & exemptions. | 3/19 | Watt | 3/23 | AS AMENDED BE CONCURRED IN | 4/7 |
| SB 431 | To provide for allocation of income earned from a business jointly owned by spouses. | 3/19 | Jergeson | 3/24 | NOT BE CONCURRED IN | 4/7 |

When operations decreased from 200 to 100, approximately 98-102 persons lost their jobs Mr. Lynch estimated. Five hundred persons would be affected if keno operations were closed. They receive from $2.50 to $5 per hour, dpending on experience. Usually there are between 2 and 3 persons on a shift.

The local government has to supply the policing of these operations to keep them honest. So far no one has ever thought they were being cheated on bingo or keno. Decision as to who would decide had expertise in learning about cheating could be incorporated into the bill.

Rep. Vincent suggested extending an effective date until January 1, 1978 in order for owners of equipment and employees to have time to blend into Montana's economy in other fields. The bill would become effective July 1, 1977 otherwise if it passes.

The question of whether a local government could prohibit gambling arose. Mr. Lynch advised that the governing body can do anything the law allows, but not more than the law allows. State law supersedes any action of the local governing body. What the state allows is legal in all localities unless it could be controlled by a prohibitive tax. Cities can pass ordinances.

When a legislative body attempts to restrict something people want, it causes a lot of problems and the same analogy here would cause problems.

People acted within a Supreme Court ruling when they established keno operations. However, the state of Montana wouldn't be liable as other such things have happened, and no reimbursements have been made.

Rep. Lien asked if a local government could license out of existence any certain type of gambling they did not approve. Armstrong advised that in a petition to authorize the Legislature to legalize bingo (not keno) and raffles and to outlaw all other forms of gambling, 9-10,000 people signed the petitions, and this was taken to court which ruled that you may not diminish the existing state law.

Senator Brown closed saying the intent of this bill is to clarify the intent of the Legislature by allowing people to vote for type of gambling they want, and to close the loophole that was found.

Senator William Mathers, District #26, Custer County, chief sponsor of SB 309, said this bill was introduced on behalf of the oil and gas companies, and would provide that royalty interests may be required to share the burden of the resource indemnity trust tax on a pro rata basis.

SENATE BILL 309

Royalty owners would be required to pay their share pro rata of any mineral royalty due to the indemnity trust fund out of their 1/8 royalty fees from production, unless he has a contract with the producer wherein the producer will pay the tax. The producer will pay the tax due from production on federal, state or municipal lands

Don Allen, Montana Petroleum Association, Helena, said the trust indemnity tax is paid 70% from oil and gas, 20% from coal, and 10% from other minerals. SB 309

allows settlements under lease or proceeds orders or other contracts to be shared pro rata also.

There were no other proponents and no opponents.

The producer will pay the resource indemnity trust fund tax, and will deduct the tax out of the royalty owner's share figured on pro rata ownership of any fragmented shares. The producer owns 7/8 of the whole production, and the owner's have a 1/8 share. The producer will pay the RIT fund tax from federal, state and municipal lands. The Senate Taxation committee felt that this would be the only way they could get any money for what is produced on federal lands.

Senator Frank Dunkle, District #15, Lewis & Clark County, said this bill of which he is chief sponsor, is the result of considerable work by the Snowmobile Association of Montana. This will put in line the needs of the snowmobile industry and it will meet the needs of the land owner and of the public land manager.

SENATE BILL 177

This bill provides that a one-time fee of $3 shall be charged for a certificate of ownership for a snowmobile, 1/2 to be retained by the county treasurer and 1/2 forwarded to the state registrar of motor vehicles. It also provides for a $6 temporary use permit. Under SB 177, interest from the tax-paid decal collections would be placed in the snowmobile earmarked revenue fund for use in developing snowmobile facilities; and snowmobile fines are to be used for safety and education purposes. The bill provides for dealer registration certificates and allocates the income from this source.

This bill has been amended to take in railroad right-of-ways and other things, and it has been found this was not acceptable because of other state and federal laws, and Sen. Dunkle would like to have the Taxation Committee take out these amendments as they are inserted, if the committee doesn't have any problem with this viewpoint. Railroad proposed amendments correcting problems is attached.

Ken Hoovestal, Montana Snowmobile Association lobbyist, explained the amendments that have been made in the bill in detail. Copy of the amendments and his explantion is attached.

Everett E. Woodgerd, President Missoula Snowmobile Club, Missoula asked that some of the restrictions be stricken from the law because they are causing a lot of trouble. They want the Highway Patrol to keep complete control of all highways, but don't feel it is necessary for them to have to give a written permit for every person. Sometimes it is necessary to get on a plowed road, and in order to do this legally, a snowmobiler would have to have a written permit. He supports this bill himself and as a representative of the club.

John Delano, Montana Railroad Association, supports the proposed railroad amendments. The railroads have had some trouble with snowmobilers riding on the railroad right-of-ways, and these amendments are necessary.

Barney Bowles, Seeley Lake Drifter Riders, and Daniel I. Cainan, Seeley Lake Business Men's Association, Seeley Lake, support SB 177.

Rep. Bertelsen moved that SJR 29 BE CONCURRED IN. Motion carried unanimously. Reps. Vincent, Harrington, Uhde, Waldron were absent.

SENATE BILL 211 - Rep. Dassinger moved that action taken on SB 211 on April 5 be reconsidered. After a great deal of adverse discussion, this motion was withdrawn, and SB 211 will be sent to the Committee of the Whole with a Not Be Concurred IN recommendation as previously adopted.

HOUSE BILL 107 - Dennis Burr explained this bill applies to property that is not having any minerals extracted. Minerals being produced are taxed on their production. Taxes on rights of entry vary from a few cents to several dollars. Right of entry cannot be taxed if no one is using it. The DOR put in a bill to repeal rights of entry because of the District Court decision that rights of entry could not be taxed if not used. The DOR is taxing these rights in other parts of the state, and this problem will have to be determined by court state-wide. The DOR would like to see this repealed. There is an implicit right of entry in all severed mineral rights.

There is the question of whether a right of entry can be surrendered if it does not exist. Very hard to know who has right of entry when it is split into 40 different directions and the tax can't be administered properly when it is split in so many directions. The county assessors could figure out who owns the right of entries if they wanted to do so although it would entail a great deal of work. In some cases, it would be relatively easy to locate owners of reserved rights of entry. This property must be taxed on individual ownership basis. No set value has been placed on these rights.

SENATE BILL 384 - Rep. Vincent moved that SB 384 BE CONCURRED IN. Motion carried unanimously. Reps. Fabrega, Waldron and Fagg were absent. Rep. Bertelsen will carry this bill on the House floor.

SENATE BILL 309 - Rep. Underdal moved that SB 309 BE CONCURRED IN. Motion carried unanimously. Reps. Waldron and Fagg were absent. Rep. Lien will carry.

SENATE BILL 155 - After explanation by Terry Cohea, and discussion by the committee, SB 155 was recommended by a motion by Rep. Vincent NOT BE CONCURRED IN. Motion carried with 14 voting yes, Rep. Fabrega voting no, and Reps. Waldron and Fagg absent. Under SB 155, the DOR would try to tax all equipment of irrigation districts which are now exempt. Most irrigation companies are very old and they are not incorporated and wouldn't fit into any tax classification category.

SENATE BILL 350 - Rep. Williams moved that SB 350 BE NOT CONCURRED IN. Motion carried unanimously. Reps. Waldron and Fagg were absent.

The meeting adjourned at 11:45 a.m.

Herb Huennekens

REP. HERB HUENNEKENS, CHAIRMAN

45th LEGISLATIVE SESSION

COMMITTEE ON TAXATION

| SENATE BILL NO. | ENTERED COMM. | DATE CONSIDERED | OUT OF COMM. | DO PASS DATE | DO NOT PASS DATE | DO PASS AS AMEND. DATE | BE CONCURRED IN DATE | BE CONC. IN AS AMENDED DATE | BE NOT CONCURRED IN DATE |
|---|---|---|---|---|---|---|---|---|---|
| 211 | 1/24 | 2/3 3/15,24 | 3/15 3/16 | 3/16 | | 3/16 3/24 | Reconsidered 3/15, 3/21 | | |
| 212 | 1/24 | 2/4 | 2/10 | | 2/10 | | | | |
| 251 | 1/24 | 2/9 | 2/15 | | | 2/15 | | | |
| 252 | 1/24 | 2/18 | 2/18 | 2/18 | | | | | |
| 266 | 1/25 | | 2/25 | | 2/25 | | | | |
| 285 | 1/26 | | 2/15 | | 2/15 | | | | |
| 303 | 1/26 | 3/22 | TABLED | | | | | | |
| 309 | 1/27 | 2/11 | 2/22 | | | 2/22 | | | |
| 319 | 2/1 | 2/11 | 2/14 | | 2/14 | | | | |
| 350 | 1/31 | 2/10 | 3/11 | | | 3/11 | | | |
| 351 | 1/31 | 2/9 | 3/11 | | 3/11 | | | | |
| 352 | 1/31 | 2/15 | 3/7 | 3/7 | | | | | |
| 378 | 2/2 | 2/18 | 3/7 | 3/7 | | | | | |
| 384 | 2/3 | 2/18 | 2/18 | | | 2/18 | | | |
| 394 | 2/4 | 2/11 | TABLED | | | | | | |
| 408 | 2/22 | 2/23 | 2/23 | | 2/23 | | | | |

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 11, 1977

The twenty-second meeting of the Taxation Committee was called to order on the above date in Room 415 of the Capitol Building at 8:05 a.m. by Chairman Mathers.

ROLL CALL: Roll call found all members present with the exception of Sen. Healy

The following witnesses were present:

| | |
|---|---|
| James Madison | Dept. of Rev. |
| Howard Vralsted | " |
| Don Allen | Mont. Petroleum Assoc. |
| Clyde Logan | Sam Gary |
| Tom Winsor | Mont. Chamber |
| Wayne Martell | U of M Student |
| Ernie Guindon | SAIA |
| Jim Mockler | Mont. Coal Council |
| Bill Parker | Mont. State Indian Legis. Office |
| Vicki Johnson | |

CONSIDERATION OF SENATE BILL 309: Chairman Mathers introduced Mr. Allen to explain the bill and he presented Mr. Logan who he said had better knowledge of the statutes. Mr. Logan said the proposed legislation would make present system of taxing consistent and producers of any non-renewable natural resource could take their prorated portion of the resource indemnity trust tax out of royalties due royalty interests. He said there is no other state that requires operators to pay the tax on royalties. Mr. Madison said the Department takes no stand as far as the bill is concerned, however he would echo Mr. Logan's comments insofar as making the statues consistent so that all mineral royalties would be handled the same.

The Chairman called for other proponents or opponents and following, permitted questions from the committee. There was discussion and several comments concerning the loss in revenue and it was estimated perhaps $60,000 to $70,000. Following further discussion, the hearing on SB309 was closed.

CONSIDERATION OF SENATE BILL 394: Sen. Mehrens, Dist. 45, said his very simple bill merely gave everyone who files an income tax return an increased deduction for each member of the family, of $750.00. Mr. Winsor rose to give his support of the bill and Mr. Vralstad said he neither supported or opposed the bill, but said an amendment should be made to the bill, saying some of the language as deleted in the bill, should be reinstated. His comments are contained in Exh. #1, attached.

The Chairman asked for other proponents or opponents and following, for questions from the committee. They referred to

a written request to the Attorney General asking him to prepare an opinion on the matter.

There then followed some discussion on the bill and the possibilities of tax relief with the committee questioning both Sen. Watt and Mr. Groff. This concluded the hearing on SB303.

Chairman Mathers then directed the committee's attention to SB309, previously heard, and awaiting amendments. There was some discussion on the bill and an amendment suggested.

DISPOSITION: Sen. Towe Moved Amendment #4, see attached report. The motion carried unanimously.
Sen. Turnage then Moved Amendment #1 in the title; motion carried unanimously.
Sen. Turnage Moved SB309, As Amended, Do Pass. Motion carried unanimously. Note absence of Sen. Healy.

The Chairman then asked the committee to consider SB193, also heard by the committee. A number of amendments had been proposed at Monday's meeting and these amendments were looked over and discussed. The committee, in a desire to aid counties by directing the new car sales tax to go to the aid of local governments, suggested such an amendment to the bill. Sen. Watt moved such an amendment to the bill. However, following his motion, further discussion was held and the committee requested information on the funds the Highway Department might now have for road building. Sen. Manning pointed out that funds used by the Department benefited more people in Montana, as the roadwork could be accomplished with greater efficiency, therefore the road dollars go much further than when used by smaller cities, towns or counties.

DISPOSITION: Sen. Roskie then made a Substitute Motion that the amendments in Exh. #1, be accepted. Following further discussion, the motion carried. See attached roll call.

The committee wished more information from the Highway Department regarding the funds the Department has for road building and they also requested a representative of the Department of Revenue be present at the next meeting. They questioned the method by which the moneys are returned to the counties, by the state, and also the formula that is used in determining the amount of money that is returned. Following their discussion, the committee chose to move the bill and reserved the privilege of amending the bill from the floor if they chose to, upon further information as detailed above.

DISPOSITION: Sen. Towe Moved SB193 As Amended, Do Pass. The motion was seconded and carried. Note for the record that Sen. Norman voted "No' and absence of Sen. Healy.

Following disposition of this bill the Chairman called for adjournment of the meeting.

WILLIAM MATHERS CHAIRMAN

# STANDING COMMITTEE REPORT

February 22 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration SENATE Bill No. 309

Respectfully report as follows: That SENATE Bill No. 309,
introduced bill, be amended as follows:

1. Amend the title, lines 6 and 7.
Following: "BASIS"
Strike: "AND EXEMPTING GOVERNMENTAL ROYALTIES FROM SUCH TAX"

2. Amend page 1, section 1, line 16.
Following: line 15
Strike: "twenty-five dollars ("
Following: "$25"
Strike: ")"

3. Amend page 1, section 1, line 20.
Following: "rate of"
Strike: "one-half of one percent ("
Following: "of 1%"
Strike: ")"

4. Amend page 1, section 1, line 22 through line 10, page 2.
Following: "excess of"
Strike: "five thousand dollars ("
Following: "$5,000"
Strike: ")"
Following: "($5,000)."
Strike: "Each person required to pay such tax hereunder shall pa
the same in full for his own account and for the account of each
the other owner or owners of the gross proceeds in value or in

DO PASS

STATE PUB. CO.
Helena, Mont.

kind of all the marketable minerals extracted or produced, including owner or owners of working interests, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of such extracted marketable minerals, except that any of the aforesaid interests that are owned by the federal, state, county, or municipal governments are exempt from taxation under this chapter."

5. Amend page 2, section 1, line 12.
Following: "owners"
Strike: "will"
Insert: "may"

AND AS SO AMENDED,

DO PASS

WILLIAM MATHERS CHAIRMAN

SENATE BILL NO. 309

INTRODUCED BY MATHERS, TURNAGE, STEPHENS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ROYALTY INTERESTS MAY BE REQUIRED TO SHARE THE BURDEN OF THE RESOURCE INDEMNITY TRUST TAX ON A PRO RATA BASIS ~~AND EXEMPTING GOVERNMENTAL ROYALTIES FROM SUCH TAX~~; AMENDING SECTION 84-7006, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-7006, R.C.M. 1947, is amended to read as follows:

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-End-